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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.B-L., a Person Coming Under  
the Juvenile Court Law.

B293305

(Los Angeles County  
Super. Ct. No. PJ52292)

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THE PEOPLE,

Plaintiff and Respondent,

v.

J.B-L.,

Defendant and Appellant.

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APPEAL from an order of the Superior Court of Los Angeles County, Fred J. Fujioka, Judge. Affirmed.

Lynette Gladd Moore, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Paul M. Roadarmel, Jr., Supervising Deputy

Attorney General, Stephanie A. Miyoshi, Deputy Attorney General, for Plaintiff and Respondent.

Defendant and appellant J.B-L. (Minor) appeals from a juvenile court order declaring him a ward of the court, removing him from the custody of his mother, and placing him in the custody of the probation department for up to 16 months. We are asked to decide whether there is substantial evidence supporting the removal order notwithstanding opinion evidence from mental health professionals that in-home treatment would be preferable, or at least an available option.

### I. BACKGROUND

On October 26, 2016, the dean at Minor's high school spotted several students out of class, including Minor (then 14 years old), and told them all to follow her to her office. Minor began to walk in the opposite direction, and the dean grabbed the sweater draped around Minor's shoulders in the hope it would cause him to comply and follow her. Minor did not comply and instead began a "tug-of-war" with the dean over the sweater until Minor grabbed at a "personal bag" the dean had around her arm. A campus aide came over to assist the dean, and Minor tried to "push through him." The dean then attempted to intervene and keep Minor away from the campus aide, and Minor punched the dean in the area of her right wrist. Minor then walked away, yelling derogatory names. School police were called and detained Minor.

The People filed a petition in juvenile court alleging Minor should be adjudged a ward of the court for committing a battery on a school employee, a violation of Penal Code section 243.6. A probation officer subsequently prepared a pre-plea report that recounted a statement provided by the dean, summarized Minor's

background and prior misconduct, and made a recommendation to the juvenile court for resolution of the petition.

Minor's high school dean told the probation department that Minor appeared to be "gloating" when he saw her at school after the aforementioned battery. The dean reported Minor continued to challenge teachers and appeared to think he could get away with it. The dean further opined Minor's mother (Mother) was "enabling" and not supervising Minor well.

Regarding Minor's background, the pre-plea report indicated he was born in Guatemala, where his father was murdered in 2007. Mother came to the United States in 2008, leaving Minor behind with a family friend and extended family. In 2015, Minor's uncle decided to bring Minor to the United States, but Minor was kidnapped by a drug cartel during the journey. Minor told Mother he suffered when in the hands of the cartel because he was often hungry, cold, and had to walk a long distance. Mother paid a ransom to the cartel, who then delivered Minor to United States immigration authorities—and they ultimately returned Minor to Mother's custody. Mother told the probation department she believed Minor was "angry" and suffered from the effects of his kidnapping.<sup>1</sup>

The pre-plea report also summarized Minor's history of misconduct in and out of school. In middle school, Minor was suspended for fighting. Minor was transferred to his current high school after having disciplinary issues at a prior high school.

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<sup>1</sup> Mother additionally told the probation department that Minor was "uncooperative" and disobeyed house rules—including leaving their home without permission since he had been arrested.

The probation department additionally indicated “Minor has truancy issues, he is defiant and aggressive towards school authorities[,] and [he] is not making any effort in school.” Further, in October 2015 (roughly a year before the charged incident), police had arrested Minor for making criminal threats against his stepfather.

Regarding a resolution of the petition, the probation department recommended Minor be declared a ward of the court and receive services at home, under the supervision of the probation officer, “to assist him in making changes, understanding the seriousness of his actions and consequences for poor behaviors.” The probation department cited, in particular, Minor’s lack of impulse control, his history of poor behavior, Mother’s attitude toward Minor (which the probation department described as “weary and wary”), and the possibility that Minor may suffer from “some deep seated emotional issues.” The probation department acknowledged it “seriously considered [a] suitable placement option” (i.e., removal of Minor from the home and placement in a juvenile facility) but ultimately came to the view that it was in the best interests of Minor and his family to receive intervention services in the home. The department cautioned, however, that “residential care shall be required if [Minor] violates court orders or engages in behavior resulting in removal from the community pursuant to court order.”

Minor appeared in juvenile court for an adjudication hearing in December 2017. He admitted the allegation in the petition, the court placed him on probation for six months without declaring him a ward of the court at that time (pursuant

to Welfare and Institutions Code<sup>2</sup> section 725, subdivision (a)), and the court ordered him released to Mother pending a future progress hearing.

In April of the following year, the probation department submitted a progress report to the juvenile court. The report revealed Minor had been failing to attend school and, when he did attend, had resumed antagonizing school officials. The report recounted incidents in which Minor became argumentative or confrontational with school personnel (including the assistant principal), used profanity or racial slurs in addressing school personnel (including the dean that had been the victim of the admitted battery), and spat in the direction of one school official.

The probation department's progress report also documented Minor had failed to "interact with [Mother] in a positive manner." Mother told the probation department that, on two occasions, Minor had left the home for more than 24 hours without her permission. Mother said she believed Minor was engaging in heavy drug use and possibly involved in drug sales or credit card fraud (based in part on new clothes he was wearing that she did not buy for him). Mother thought Minor's out-of-control behavior was escalating and growing more violent, and she asked that he be removed from the home for the safety of the family, the community, and himself. The probation department further reported Minor had threatened Mother for reporting his bad behavior—telling her (during an initial probation orientation meeting) that she would "regret" her decision to disclose his "negative behavior."

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<sup>2</sup> Statutory references that follow are to the Welfare and Institutions Code.

The progress report concluded that the various reported instances of misbehavior meant Minor was in violation of “most” of the court-ordered conditions of probation. The probation department recommended that the court revoke the order for section 725, subdivision (a) probation, declare Minor a ward of the court, and consider making a disposition order for suitable placement—noting such a placement would provide the intensive services Minor needed to correct his volatile behavior.

The juvenile court revoked Minor’s section 725, subdivision (a) probation but opted not to make an order for suitable placement. Instead, the court released Minor to Mother with an order placing him on Community Detention Program (CDP). A handwritten notation on the CDP order that issued, next to the conditions Minor would be required to obey, states “1st violation to be detained.”<sup>3</sup>

Five days after Minor was placed on CDP, police arrested Minor for battery. The probation department prepared a detention report describing what led to the arrest: “According to information provided by law enforcement, [Minor] was involved in an argument with the victim, who is [Minor’s] stepfather. The argument escalated and [Minor] challenged his stepfather to a fight. The stepfather tried to restrain [Minor] from behind, to prevent [Minor] from hitting him. [Minor] became combative and started kicking, hitting and scratching his stepfather. The victim sustained multiple visible injuries. [Minor] is on CDP house arrest and was wearing his ankle bracelet at the time of his detainment.”

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<sup>3</sup> The appellate record does not include a transcript of this hearing.

The People filed a new section 602 petition charging Minor with battery (Penal Code section 242) for the fight with his stepfather. The juvenile court ordered Minor detained on the new petition, finding continuance in the family home would be contrary to Minor's welfare, and ordered the probation department to prepare a new pre-plea report. Less than a week later, however, the juvenile court allowed Minor to be released on CDP to Mother, again with a requirement that he wear an ankle monitoring device.

Roughly three weeks later, in mid-May 2018, the probation department notified the court that Minor had removed the monitoring device and left Mother's home without permission—with his then-current whereabouts unknown. The juvenile court issued a bench warrant for Minor's arrest.

Law enforcement arrested Minor on the bench warrant three months later, in August 2018. The probation department notified the juvenile court of the arrest and submitted reports with additional information for the court's consideration. The department's detention report stated Minor had not been attending school and was using marijuana weekly. The report recommended the juvenile court order secure detention for Minor pending disposition of the wardship proceedings. Mother told the probation department she wanted Minor to return home to her because she said (as recounted by the report) he had "changed" and was providing positive progress while on bench warrant from 05/11/18 to 08/23/18."

The juvenile court ordered Minor detained at juvenile hall pending disposition. Minor admitted committing the battery against his stepfather as charged in the second section 602 petition but requested a contested disposition hearing.



At the contested hearing, which was held in October 2018, the People moved two psychological evaluations into evidence. One was an October 9, 2018, court-ordered evaluation conducted by clinical and forensic psychologist Nadim Karim. Karim related statements by Minor when asked about exposure to traumatic incidents, including: Minor's statement that he was kidnapped by a cartel when coming to the United States (which, Minor told him, lasted only one day and involved cartel members using "big guns and revolvers"), Minor's claim that he had been attacked with knives by gang members, and Minor's assertion that he had "been present when [his] friends have been killed." Karim diagnosed Minor with "Persistent Depressive Disorder, PTSD, and a Cannabis Use Disorder." Karim opined the "court might consider returning [Minor] home pursuant to the implementation of Wrap Around services" because Minor "appears to have a supportive environment at home and suitable placement might result in a counterproductive situation, with further psychological decline."

The other psychological report admitted in evidence was prepared by Ilda Aharonian, a Los Angeles County Department of Mental Health clinical psychologist who had been treating Minor while detained. Aharonian reported Minor had been an active participant in therapy sessions and "demonstrated significant insights into his emotions." Aharonian concluded Minor's "significant trauma" had led to struggles with depression and anger, but she believed he had made "great improvements in developing and practicing his coping skills to reduce his reactivity when he has experienced feelings of anger while at [juvenile hall]." Aharonian opined it was "not uncommon" for the mental health symptoms of youths who experienced trauma of the type

suffered by Minor to be “further exacerbated by a prolonged period of separation or lack of reunification” with parents, and Aharonian “highly recommended” Minor participate in family therapy with Mother “if/when [he] is allowed to return home.”

In addition to receiving the psychological reports in evidence, the juvenile court also heard testimony from Minor’s probation officer (during the People’s case) and Mother and Aharonian (during the defense case).

The probation officer recommended the court order suitable placement for Minor—rather than in-home services—because of Minor’s misconduct that led to the two filed petitions, Minor’s drug use, and the officer’s view that Minor would not get the support he needed at home in light of Mother’s prior expressed inability to control Minor and his disrespectful behavior toward her.

Aharonian testified that for someone like Minor, cognitive behavioral therapy in a smaller setting like a home would be best—and such therapy could not be undertaken in detention because it would leave Minor vulnerable to the other detained children and could “result in further exacerbation of symptoms.” Aharonian conceded, however, that she had not reviewed all of the information the probation department maintained on Minor and she agreed she had seen “great improvement” in Minor while he received mental health treatment in juvenile hall.

Mother testified Minor had been doing “fine” and “behav[ing] well” since getting in the fight with his stepfather; she wanted Minor released to her at home.<sup>4</sup>

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<sup>4</sup> Minor’s stepfather also testified he wanted Minor returned home.

The juvenile court ruled it would follow the probation department's recommendation for suitable placement and declared Minor a ward of the court. The court established Minor's maximum period of confinement as 16 months.

## II. DISCUSSION

The juvenile court was within its discretion to remove Minor from the family home and order him committed to the custody of the probation department for suitable placement not to exceed 16 months. Minor contends otherwise because "all of the available evidence indicated that removal from the home would be very damaging to him" and thus, he maintains, no substantial evidence supports the court's discretionary judgment. While it is true that the psychological professionals who evaluated Minor were in favor of, or at least open to, home placement, there was substantial evidence pointing in the other direction—namely, Minor's prior poor performance while supervised at home (including violation of court orders) and his demonstrated improvement while receiving treatment in the custody of the probation department. The juvenile court was entitled to disregard the opinion evidence and rely on Minor's actual performance in ordering removal.

A. *Standard of Review*

“A juvenile court’s commitment order may be reversed on appeal only upon a showing the court abused its discretion.” (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1329-30 (*Robert H.*).) “An appellate court will not lightly substitute its decision for that rendered by the juvenile court. We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.] In determining whether there was substantial evidence to support the commitment, we must examine the record presented at the disposition hearing in light of the purposes of the Juvenile Court Law.” (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395 (*Michael D.*); accord, *Robert H.*, *supra*, at p. 1330; see also *In re Khalid B.* (2015) 233 Cal.App.4th 1285, 1288 [“A trial court abuses its discretion when the factual findings critical to its decision find no support in the evidence”].)

B. *The Juvenile Court’s Discretionary Judgment Is Properly Grounded in Substantial Evidence*

The purpose of the Juvenile Court Law is “to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor’s family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public.” (§ 202, subd. (a); see also § 202, subd. (b) [“Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable

for their behavior, and that is appropriate for their circumstances”].) When a minor is declared a ward of the court, the court may order the ward removed from his or her parents’ physical custody if it finds the parents are “incapable of providing or ha[ve] failed or neglected to provide proper maintenance, training, and education for the minor” or that “the minor has been tried on probation while in custody and has failed to reform.” (§ 726, subd. (a)(1)-(2).) There is substantial evidence both are true here.

Most obviously, the record demonstrates Minor was tried on probation but failed to reform. When the battery on a school employee petition was filed and Minor admitted the violation, the juvenile court opted against declaring Minor a ward of the court and instead placed him on probation for six months, which if successful, would have resolved the wardship proceeding. (§ 725, subd. (a).) Minor, however, violated “most” of his probation conditions by continuing to antagonize school officials (including the victim of his battery) and disobeying, disrespecting, and threatening Mother. At that time, the juvenile court did not order Minor suitably placed but instead released him to Mother on CDP. Less than a week later, Minor committed the admitted battery against his stepfather—again violating court-ordered conditions of release. The juvenile court ordered Minor detained briefly at juvenile hall but then released him again to Mother on CDP. Within a month of this release, Minor removed his ankle monitoring device and ceased reporting to the probation officer—which led to a bench warrant for his arrest. Only at that point, having squandered three chances to avoid suitable placement, was Minor declared a ward of the court and ordered suitably placed. The sequence of events leaves no doubt that Minor was

unsuccessfully tried on probation, and in our view, the juvenile court's repeated instances of forbearance until it could tolerate no further disregard for court orders represent the antithesis of an abuse of discretion.

For related reasons, there are strong indications in the record that Mother was incapable of providing proper maintenance, training, and education for Minor (as was Minor's stepfather). Mother admitted as much herself, telling the probation department early in the wardship proceedings that Minor was "out of control", asking the probation officer to arrest Minor, and writing a letter begging the court to intervene with her son. While Mother attempted to walk some of these statements back at the later disposition hearing (once on notice of the probation department's request for suitable placement and well after Minor's threat that she would "regret" disclosing his misbehavior), the juvenile court was of course entitled to rely on her earlier admissions. (*Robert H.*, *supra*, 96 Cal.App.4th at pp. 1329-1330.)

Even apart from Mother's admissions, Minor's misbehavior itself was reason to conclude she was then incapable of providing proper training and education. As the probation department informed the juvenile court, Minor was often truant and he was failing nearly every high school class. In addition, during the time he was released to Mother while the wardship proceedings were ongoing, Minor assaulted his stepfather (prompting an arrest and a second section 602 petition), used marijuana weekly (by his own admission), removed the court-ordered ankle monitoring device, and repeatedly left home without permission (leading Mother to suspect he was involved in other criminal activity). There were accordingly ample grounds to conclude

suitable placement was necessary because of Mother's lack of parental control.

Against all this, Minor chiefly points to the psychologist opinion evidence from Karim and Aharonian, recounted *ante*, and argues the court abused its discretion because the psychologists did not recommend suitable placement (and Aharonian specifically favored in-home treatment).<sup>5</sup> Under the applicable standard of review, however, we cannot conclude the juvenile court was required to accept the opinion of the psychologists. (*Michael D.*, *supra*, 188 Cal.App.3d at p. 1395; see also *Robert H.*, *supra*, 96 Cal.App.4th at p. 1329 [“The court at the minor’s request also considered in mitigation the psychologist’s evaluation of the minor’s motivation for committing the shooting and the minor’s dangerousness to the community. The court was not required to take all the information properly considered by it at face value. The court was entitled to evaluate the credibility of the minor and the weight to be afforded to the psychological evaluation, as well as to accept or reject the recommendations of the probation officer”].) In fact, there were good reasons why the court would not accept the psychologists’ opinions. Aharonian conceded while testifying that she had not been privy to all the information about Minor’s misbehavior that the probation department maintained, e.g., police reports, school attendance reports, and the probation officer’s detailed case notes. Furthermore, Aharonian remarked on the “great improvement”

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<sup>5</sup> Only Aharonian unequivocally recommended Minor be placed at home with Mother. Karim recommended “the court might consider” returning Minor home to Mother with an order for wrap-around services.

Minor made in therapy while in custody. The juvenile court could justifiably conclude the custodial setting was producing rehabilitative results—which should continue via a suitable placement order—in great contrast to Minor’s failures while supervised at home.

We therefore conclude ample evidence supports the juvenile court’s order committing Minor to the custody of the probation department. That conclusion also resolves Minor’s separate due process contention.

#### DISPOSITION

The juvenile court’s order is affirmed.

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BAKER, J.

We concur:

RUBIN, P. J.

MOOR, J.